

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of:  
Harry R. Davis et al.

Serial No.: 10/057,534

Filed: January 25, 2002

For: Combinations of Bile Acid  
Sequestrant(s) and Sterol  
Absorption Inhibitor(s) and  
Treatments for Vascular  
Indications

Examiner: Dr. Shengjun Wang

Group Art Unit: 1617

Atty. Docket No.: CV01378K

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w/traverse*

*Beit  
8-12-03*

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

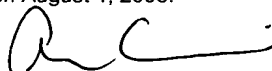
**RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES**

This is in response to the Office Action mailed on July 16, 2003, in the above-identified patent application.

Claims 1-81 are pending in the application. A two-way restriction requirement was set forth at page 2 of the Office Action and an election of species requirement was set forth at page 3 of the Office Action. For brevity, these rejections are not repeated herein but reference is made to the Office Action. Applicants respectfully traverse and request reconsideration and withdrawal of the restriction and election of species requirements.

Applicants believe that when there is a linking claim encompassing the scope of pharmaceutical compositions comprising compounds and methods of treatment using the compositions, it is inappropriate to restrict the invention. Applicants believe that due to such commonality a complete examination of claims 1-58 would not cause undue burden. Therefore, reconsideration and withdrawal of the restriction requirement is respectfully requested.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 1, 2003.

  
Ann Cannoni  
Registration No. 35,972



**PROVISIONAL RESPONSE TO RESTRICTION REQUIREMENT AND  
ELECTION OF SPECIES**

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To facilitate prosecution of the application and in order to comply with the Examiner's requirements, Applicants hereby provisionally elect with traverse the claims of Group 1 (claims 1-28, 31-38, 40, 42, 43, 45, 47, 48, 50, 52, 53, 55-58, 60-63, 65, 67, 68, 70-72, 74-77, 79 and 80) for initial examination in this application.

Applicants provisionally elect with traverse cholestyramine as the bile acid sequestrant for initial examination. Cholestyramine is disclosed at page 24, line 1 and elsewhere throughout the application. The claims readable thereon include claims 1-3 and 5-81.

Applicants provisionally elect with traverse the compound of Formula (II) (ezetimibe) (shown at page 30 of the specification) for initial examination in this application. The claims readable thereon include claims 1-36 and 70-81.


Applicants provisionally elect with traverse simvastatin (an HMG CoA reductase inhibitor) as the third therapeutic agent for initial examination in this application. Simvastatin is disclosed at page 66, line 14 and elsewhere throughout the application. The claims readable thereon are claims 8-11.

Examination on the merits for claims 1-81 is respectfully requested.

Respectfully submitted,

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Date: August 1, 2003

  
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